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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,811	10/18/2005	Tibor George Csicsatka	PU030124	7798

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EXAMINER	
MCCORD, PAUL C	

ART UNIT	PAPER NUMBER
2614	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/553,811	CSICSATKA ET AL.	
	Examiner	Art Unit	
	PAUL MCCORD	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 September 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 9/22/9.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 6, 8, 9, 14, 15, 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Platt (US Patent 6987221), further in view of Kudou (US PGPub 2005/0076008 cited by Applicant) and further in view of Novelli et al. (US PGPub 2003/0144918.)

5. Regarding claim 1, 6, 8, 9, 14, 15, 21

Platt teaches a system and method for compiling a playlist using a digital audio player in which a user may select a set of stored digital audio files for potential inclusion in a playlist via user input to a user input device (at least in the form of clicking the

"ADD" button of Figure 4) in concert with a processor controlled system functional to operate a user interface operable to compile the playlist of audio files as well as decode and reproduce the audio files (though the Fig 15 depicted audio card, output port or output device such as a speaker.) The Platt system and method builds a playlist not merely through the inclusion of media items by a user's input of agency through an "ADD" button, but also through inclusion of media items with substantially similar identifying data, in either case incorporating the identifying metadata into the playlist. User selection drives the Platt system and method through the operation and selection of menus in a user interface driven computing environment, whereby a user can select and preview a file or multiple files (Platt: Fig 4) While Platt describes a method for automatically generating a playlist in a media player in the above manner, Platt also allows that further operative permutations of the components disclosed are possible. (Platt: Col 18, l 24-38)

Platt does not explicitly teach sequentially reproducing each preview in a list of media nor detecting a user input of selection of a specific audio clip for inclusion in the playlist during playback of the clip.

In a related field of endeavor Kudou teaches a system and method for creating a playlist from a search. The Kudou system and method responds to a user initiated search of media items by displaying a candidate list of media titles and sequentially reproducing highlight portions of said list. (Kudou: Abstract; section [0015]-[0019]; Claim 6) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Platt taught playlist creation method with a means for searching sequentially through

highlights or previews of user selected media as taught or suggested by Kudou. The average skilled artisan would have expected predictable results from such a modification.

Platt in view of Kudou does not explicitly disclose the operation and detection of a user input indicating preference on the part of a user while the media file is being reproduced.

In a related field of endeavor Novelli teaches a music marking system for electronically notating music selections. (Novelli: Abstract) Novelli discloses that the optimum time for a user to interact with a media file is during reproduction (Novelli: section [0004], [0041], [0065].) Novelli further discloses storage of interaction reference information during playback of a media file. It would have been obvious to one of ordinary skill in the art at the time of the invention to operate the Platt disclosed "ADD" button during playback of a media file as taught by Novelli, thereby indicating preference on the part of the user to include a media item in the Platt playlist and causing the sequential reproduction of a next item in the Kudou disclosed sequential stepping method. The average skilled artisan would have expected predictable results from such a modification.

6. Claims 2-5, 10-13, 17-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Platt in view of Kudou in view of Novelli as applied to claims 1, 6, 8, 14, 15, 21 above and further in view of Heo (US Patent 7046588.)

7. Regarding claim 2-5, 10-13, 17-20

Platt teaches that an audio data file can contain an ID3 tag for associating various metadata with an audio file. (Platt: Col 4, l. 24-37) ID3 metadata is well known to include user definable metadata for sorting and organizing media files such as genre, artist, title, etc.

Heo teaches a method and apparatus for reproducing portions of an audio selection or selection comprising **wherein each audio clip is taken from a predetermined portion of its associated audio data file that is selectable by the user,** or **wherein each audio clip is taken from a portion of its associated audio data file,** (Col 4, l. 38-46), **.** (Col 4, l. 38-46) Users can designate a desired portion or duration of a set of audio files to function as a clip or highlight thereby predetermining a portion of data that will be reproduced. It would have been obvious to one of ordinary skill in the art at the time of the invention to allow user designation of a highlight or clip as disclosed by Heo in the Platt in view of Kudou in view of Novelli method of assembling a playlist. It would have been further obvious to store said designating information in an ID3 tag or associate said designating information with mood, genre, tempo or any other associated metadata. The average skilled artisan would have expected predictable results from such a modification.

8. Claims 7, 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Platt in view of Kudou in view of Novelli as applied to claims 1, 6, 8, 14, 15, 21 above and further in view of Eyal et al. (US PGPub 2002/0116476 hereinafter Eyal.)

9. Regarding claim 7, 16

Platt in view of Kudou in view of Novelli does not teach:

The method of claim 1, **further comprising the step of allowing user selection of one of a plurality of playlists to which to include the identifying data.**

In a related field of endeavor Eyal teaches:

A method for playing back media files (see Abstract) wherein the user input directed controller allows inclusion of identifying data to a user selectable playlist of digitally encoded audio data files of a plurality of playlists of digitally encoded audio data files. On the controller depicted, a playlist feature is included as a selectable icon **1960** (not shown in figure). Upon selection a pop up window is displayed which allows the user to name a new playlist or select an extant playlist to which to add the media resource being played. (s. [0267]; Fig 21) It would have been obvious to one of ordinary skill in the art at the time of the invention to include allowing user selection of one of a plurality of playlists to which to include the identifying data as taught by Eyal within the method of Platt in view of Kudou in view of Novelli. The average skilled artisan would have expected predictable results from such a modification.

Response to Arguments

10. Applicant's arguments with respect to claims 1, 6, 8, 9, 14, 15, 21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (Please see form PTO-892.)

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL MCCORD whose telephone number is (571)270-3701. The examiner can normally be reached on M-F 7:30AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (571)272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. M./
Examiner, Art Unit 2614

/Quoc D Tran/

Primary Examiner, Art Unit 2614